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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

CRAIG THOMAS DAWSON,

CV. 06-12-KI

Petitioner,

ORDER

v.

BRIAN BELLEQUE,

Respondent.

KING, Judge

On November 21, 2006, petitioner filed a *pro se* interlocutory appeal. On February 8, 2007, the Clerk of the Court sent the Ninth Circuit notification of the interlocutory appeal. On February 28, 2007, counsel for petitioner filed a motion to dismiss the interlocutory appeal. On March 12, 2007, the Circuit Clerk for the Ninth Circuit docketed the appeal (Appellate Case No. 07-35196).

Pursuant to Fed. R. App. P. 42(a), this court may dismiss an appeal, on motion by the appellant, *before* the appeal has been docketed by the circuit clerk. Because the appeal in this case was docketed while petitioner's motion to dismiss was pending before the court, the motion must be denied. Petitioner must now move the

Circuit Court to dismiss the appeal pursuant to Fed. R. App. P. 42(b).

CONCLUSION

Petitioner's motion to dismiss interlocutory appeal (#33) is DENIED.

IT IS SO ORDERED.

DATED this 15 day of March, 2007.



Garr M. King
United States District Judge